

MASTER SERVICES AGREEMENT

This agreement ("Agreement") is entered into, to be effective as of 3-15-2011 ("Effective Date"), by and between **SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE**, an Arizona electric cooperative nonprofit membership corporation headquartered at 350 North Haskell, Willcox, Arizona 85643 ("SSVEC"), and Housing Authority of Cochise County ("Supplier").

RECITALS

WHEREAS, Supplier has experience and expertise in the business of providing administration of the weatherization grant services;

WHEREAS, SSVEC desires to have Supplier provide such services to SSVEC; and,

WHEREAS, Supplier desires to supply such services to SSVEC on the terms and conditions contained herein.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, Supplier and SSVEC hereby agree as follows:

1. Supplier Services. Supplier agrees to provide, in accordance with the terms of this Agreement, the services as set forth in each and every Scope of Work, (form and format herein attached as Exhibit A) agreed upon by Supplier and SSVEC. Each Scope of Work and/or other statements containing substantially similar information and deliverables resulting there from shall also be collectively and individually known as the "Services." Supplier shall control the manner in which the Services are provided, giving due consideration to the requests of SSVEC.
 - 1.1. Nothing herein shall be deemed to preclude SSVEC from retaining the services of other persons or entities undertaking the same or similar functions as those undertaken by Supplier hereunder or from independently developing or acquiring materials or programs that are similar to, or competitive with, the Services.
 - 1.2. Supplier shall not enter into any subcontracts for the performance of the Services, or assign or transfer any of its rights or obligations under this Agreement, without SSVEC's prior written consent and any attempt to do so shall be void and without further effect. SSVEC's consent to Supplier's subcontracting any of the Services shall not relieve Supplier of any of its duties or obligations under this Agreement, and Supplier shall indemnify and hold SSVEC harmless from any payment required to be paid to any such subcontractors.
2. Staff of Supplier. Supplier shall designate the individual staff to perform the Services, but SSVEC may request specific staff of Supplier. If SSVEC, at any time in its reasonable discretion, determines that any staff assigned by Supplier is unsuitable for the performance of the Services, SSVEC shall advise Supplier of such determination, and Supplier shall immediately remove such staff, and, at SSVEC's request, promptly provide replacement staff reasonably acceptable to SSVEC.
3. Non-solicitation of Employees. Unless otherwise provided for herein, for the period of the applicable Scope of Work and for a period of six (6) months following the expiration of the same (the "Non-solicitation Period"), both parties agree not to directly solicit or seek to influence, induce, or attempt to induce any person employed by the other party for the purposes of employment without express written permission of the other party.
 - 3.1. During the Non-solicitation Period, if a party hires, as a regular employee, a person employed by the other party without the other party's written consent, then the hiring party will pay to the other party, as liquidated damages, an amount equivalent to twenty percent (20%) of such person's starting annual salary. Such liquidated damages shall be paid by the

hiring party to the other party within thirty (30) days following the date upon which the person begins his or her new employment relationship.

- 3.2. Notwithstanding the foregoing, this Section shall not preclude either party from hiring any person employed by the other party where such person independently responds to an employment opportunity transmitted by the other party to the general public (such as newspaper, magazine, broadcast, Internet, or employment agencies) or where such person is employed as a contractor or independent agent by the hiring party.
4. Term and Termination; Time is of the Essence. This Agreement is legally binding as of the Effective Date, and, unless terminated as provided herein, shall continue until terminated by SSVEC. SSVEC may terminate this Agreement or any Scope of Work, in whole or in part, at any time for any reason upon written notice to Supplier. Time is of the essence of this Agreement and of each Scope of Work. The Supplier shall be paid for services performed and accepted prior to termination. The Supplier may terminate this Agreement with 30 day written notice to SSVEC and may terminate any Scope of Work with a 30 day notice to SSVEC and only after completing work for which Supplier has been paid.
5. SSVEC Resources. Where SSVEC provides resources (e.g., computers) to Supplier that are reasonably required for the exclusive purpose of providing the Services, Supplier agrees to keep such resources in good order and not permit waste (ameliorative or otherwise) or damage to the same. Supplier shall return the resources to SSVEC in substantially the same condition as when Supplier began using the same, ordinary wear and tear excepted.
6. Fees and Billing Procedures. SSVEC agrees to pay Supplier for the Services in accordance with the fee(s) set forth in the each and every Scope of Work.
 - 6.1. Purchase Order (PO). When the Scope of Work is approved and accepted by SSVEC personnel authorized to obligate SSVEC, SSVEC will issue and deliver a PO(s) that describes the type, quantities, and agreed prices. Any conflict in type, quantities or in agreed prices between the Scope of Work and the PO(s), the PO(s) will supersede and serve as the contractual and financial obligation. The PO(s) may be adjusted by SSVEC with notice provided to Supplier accordingly (See Section 8 Change Order Procedure).
 - 6.2. Services Provided on an Hourly Basis. Where the Services are billed to SSVEC on an hourly basis, Supplier shall submit to SSVEC an accurate time sheet approved and signed by Supplier and by the SSVEC Project Manager or designee. Supplier shall direct its employees to work only such number of hours so as to not exceed the sums established in the PO. Supplier bears full responsibility for monitoring hours worked so as not to exceed the sums established in the PO. Supplier shall be paid based on hourly rates set forth or referenced in the PO. No overtime will be paid by SSVEC. Reasonable travel time may be paid by SSVEC if set forth or referenced in the PO.
 - 6.3. Services Provided on a Fixed Price Basis. Where the Services are billed to SSVEC on fixed price basis, Supplier shall submit to SSVEC detailed reporting and invoicing in accordance to the payment schedule set forth in the PO. Invoices shall be approved and signed by Supplier and by the SSVEC Project Manager or designee.
 - 6.4. Services Provided on an Hourly Basis and a Fixed Price Basis. When Supplier is engaged to work on both hourly and fixed price contracts detailed time sheets will clearly differentiate which projects individuals are assigned to and the hours worked on each.
 - 6.5. Billing Procedures. Supplier shall bill to SSVEC the sums due pursuant to an applicable PO via Supplier's invoice, on a monthly basis in arrears, and as a conforming invoice, shall contain:
 - (a) SSVEC provided PO number, Work Order number, Activity Code, and Department;
 - (b) Supplier assigned unique invoice number;
 - (c) Project name and/or project contact name;
 - (d) Description of Services rendered;

- (e) Name of Supplier's staff, number of hours, and hourly rate of each of Supplier's staff where Services are billed to SSVEC on an hourly basis;
- (f) Travel expenses, if any, pursuant to paragraph 6.7;
- (g) Discounts, if applicable;
- (h) Special charges, if any;
- (i) Taxes, if any;
- (j) Total amount due;
- (k) The percentage of total amount billed-to-date to the total value of the PO.

Where Supplier is engaged on more than one PO, Supplier shall submit a consolidated invoice clearly referencing sums applicable to each PO. Non-conforming invoices will be rejected and Supplier will be notified. Invoices that exceed the limits of the PO will be rejected and Supplier will be notified. Unless otherwise specified by SSVEC, Supplier shall submit invoices in electronic or hardcopy format to:

SSVEC
 311 East Wilcox Drive,
 Sierra Vista, Arizona 85635
 ATTN: Accounts Payable
 Email : accounts_payable@ssvec.com

- 6.6. Time of Payment. Any sum due Supplier pursuant to a PO for Services performed shall be due and payable thirty (30) days after receipt by SSVEC of a conforming invoice. If Supplier submits a non-conforming invoice or SSVEC rejects Services during the Acceptance Period, payment may be delayed until Supplier submits a conforming invoice or until SSVEC accepts Services.
- 6.7. Travel Expenses. Where specified in a PO, upon submission of an expense report and receipts, SSVEC shall reimburse Supplier for reasonable travel expenses that are consistent with SSVEC's then current expense guidelines, actually incurred in connection with the performance of the Services.
- 6.8. No Additional Charges. Except for the fee(s) described in the applicable PO (as the same may be adjusted) and changes in scope agreed upon in writing with a subsequent change order adjusting the PO, SSVEC shall not be billed for, or be obligated to pay to Supplier any charges, expenses, or other amounts for the Services or otherwise.
- 6.9. Credits Applied. Any amounts due from Supplier may be applied by SSVEC to payments due to Supplier. Any such amounts that are not so applied shall be paid to SSVEC by Supplier within thirty (30) days following SSVEC's request.
- 6.10. Supplier Record-keeping. Supplier shall maintain accurate records supporting fees billed to SSVEC of all detailed transactions such as, but not limited to, payroll time sheets, vendor invoices and receipts, equipment rentals, etc as well as payments made by SSVEC, in a format that will permit audit by SSVEC, regulatory, or governmental agency for a period of not less than three (3) years. When the Supplier is working on both hourly and fixed price contracts at the same time this detailed information will be subject to review on both the fixed price contract as well as the hourly project. This section shall survive the termination of this agreement.
- 6.11. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Supplier invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon SSVEC, and no action by SSVEC (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding SSVEC with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Supplier

and SSVEC in writing, and is binding upon SSVEC with respect to such invoice by virtue of this Agreement or a binding amendment thereto.

- 6.12. Auditable Records; Dispute Resolution. Supplier shall maintain accurate records of all fees billable to, and payments made by, SSVEC in a format that will permit audit by SSVEC for a period of not less than three (3) years. This Section shall survive the termination of this Agreement.
- 6.13. Taxes. Supplier represents and warrants that it is an independent contractor for purposes of federal, state, and local employment taxes. Supplier agrees that SSVEC is not responsible to collect or withhold any federal, state, or local employment taxes, including, but not limited to, income tax withholding and social security contributions, for Supplier or its employees. Any and all taxes, interest or penalties, including, but not limited to, any federal, state, or local withholding or employment taxes, imposed, assessed, or levied as a result of this Agreement shall be paid or withheld by Supplier or, if assessed against and paid by SSVEC, shall be reimbursed by Supplier upon demand by SSVEC.
7. Acceptance Period. Unless otherwise specified in the applicable Scope of Work, for all Services provided under this Agreement, Supplier grants to SSVEC a thirty (30) day acceptance period ("Acceptance Period") commencing on the date completed Services are delivered to SSVEC. SSVEC shall have the right to reject the Services, in whole or in part, during the applicable Acceptance Period for Supplier's failure to successfully meet the specifications as contained in the applicable Scope of Work, with such determination to be made in SSVEC's reasonable judgment. At the end of the applicable Acceptance Period, if SSVEC has not rejected the Services, the Services shall be deemed to be accepted by SSVEC; provided, however, that SSVEC's acceptance of the Services shall not be deemed a waiver of any of SSVEC's warranty rights as expressly provided herein. In the event SSVEC rejects the Services within the initial Acceptance Period, Supplier shall, upon receipt of written notice from SSVEC, be given an additional thirty (30) day period to cure any deficiency identified by SSVEC. In the event Supplier is unable to cure said deficiency within this additional thirty (30) day period, SSVEC may, in its sole discretion: (a) at no additional cost to SSVEC, require Supplier to immediately provide additional staff, as required, so as to not impact SSVEC's project completion dates, to perform further work on the Services not accepted or to provide proof that changes are not necessary; or, (b) terminate the applicable Scope of Work in part with respect to Services not accepted, in which event any and all fees paid by SSVEC to Supplier in connection with the Services shall be refunded to SSVEC in full and SSVEC shall have no further obligations to Supplier with respect to such Services; provided, however, that the foregoing shall not be deemed to limit SSVEC's other rights to terminate this Agreement as provided herein, any other rights SSVEC may have at law or in equity, or Supplier's warranties as expressly provided herein.
8. Change Order Procedure. SSVEC or Supplier may, at any time upon written notice to the other party, request increases or decreases to the Services under a Scope of Work ("Change Orders"). Change Orders will be sequentially-referenced with the original PO number and will amend the original PO issued.
 - 8.1. SSVEC Increases to Scope. If SSVEC requests an increase in the Services of a particular Scope of Work, SSVEC shall notify Supplier in writing and not more than five (5) business days (or other mutually agreed upon period) after receiving the request, Supplier shall provide the SSVEC Project Manager with a written response that shall include a statement as to whether or not the change has an associated cost or schedule impact. If the change has an associated cost or schedule impact, the statement shall include the price increase or credit and the specific impact on the schedule. If Supplier's response is approved by the SSVEC Project Manager, SSVEC's Project Manager shall draft a change order form ("Change Order Form") and forward to SSVEC personnel authorized to obligate SSVEC. Once approved, a Change Order will be executed and delivered to the Supplier.
 - 8.2. Supplier Increases to Scope. Supplier may request additions to scope by providing the SSVEC Project Manager with a written request that shall include a statement as to whether or not the change has an associated cost or schedule impact. If the change has an associated cost or schedule impact, the statement shall include the price increase or credit, and the specific impact on the schedule. If Supplier's response is approved by the SSVEC

Project Manager, SSVEC's Project Manager shall draft a change order form ("Change Order Form") and forward to SSVEC personnel authorized to obligate SSVEC. Once approved, a Change Order will be executed and delivered to the Supplier.

- 8.3. Decreases to Scope. SSVEC shall have the right, in its sole discretion, and for any reason whatsoever, to decrease the Services of a particular Scope of Work. In such case, a Change Order form will be issued to Supplier detailing the decrease in Services.
9. Non-Disclosure of Confidential Information. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.
- 9.1. Meaning of Confidential Information. For the purposes of this Agreement, the term "Confidential Information" shall mean all information and documentation of a party that: (a) has been marked "confidential" or with words of similar meaning, at the time of disclosure by such entity; (b) if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing entity and marked "confidential" or with words of similar meaning; (c) with respect to information and documentation of SSVEC, whether marked "Confidential" or not, consists of SSVEC information and documentation included within any of the following categories: (i) policyholder, payroll account, agent, customer, supplier, or contractor lists; (ii) policyholder, payroll account, agent, customer, supplier, or contractor information; (iii) information regarding business plans (strategic and tactical) and operations (including performance); (iv) information regarding administrative, financial, or marketing activities; (v) pricing information; (vi) personnel information; (vii) products and/or services offerings (including specifications and designs); or, (viii) processes (e.g., technical, logistical, and engineering) (viii) any customer specific information; or, (d) any Confidential Information derived from information of a party. The term "Confidential Information" does not include any information or documentation that was: (a) already in the possession of the receiving entity without an obligation of confidentiality; (b) developed independently by the receiving entity, as demonstrated by the receiving entity, without violating the disclosing entity's proprietary rights; (c) obtained from a source other than the disclosing entity without an obligation of confidentiality; or, (d) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through or on behalf of, the receiving entity).
- 9.2. Obligation of Confidentiality. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep such information confidential.
- 9.3. Cooperation to Prevent Disclosure of Confidential Information. Each party shall use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, each party shall advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.
- 9.4. Remedies for Breach of Obligation of Confidentiality. Supplier acknowledges that breach of Supplier's obligation of confidentiality may give rise to irreparable injury to SSVEC and the customers of SSVEC, which damage may be inadequately compensable in the form of monetary damages. Accordingly, SSVEC or customers of SSVEC may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, at the sole election of SSVEC, the immediate termination, without penalty to SSVEC, of this Agreement in whole or in part.

9.5. The provisions of this Section shall survive the termination of this Agreement.

10. Non-disclosure, Confidentiality, and Security of Protected Health Information.

10.1. If Supplier shall have access to any individually identifiable information of the policyholders of SSVEC or any information of SSVEC that is defined as "Protected Health information" (such identifiable or protected health information shall be individually and collectively known as the "Protected Health Information") in the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations issued thereunder (collectively, "Health Insurance Portability and Accountability Act of 1996" or "HIPAA"), or if Supplier provides to SSVEC any Protected Health Information, Supplier agrees that it shall execute an agreement with SSVEC that provides for the protection of the privacy and security of Protected Health Information (the "Business Associate Agreement"). The provisions of this section shall survive the termination of this Agreement.

11. Rights to Work Product.

11.1. SSVEC and Supplier each acknowledge that performance of this Agreement may result in the discovery, creation, or development of inventions, methods, formulae, techniques, processes, improvements, strategies, and data and original works of authorship, in whatever form, first produced or created by or for Supplier as a result of or related to the performance of the Services (the "Work Product"). Supplier agrees that, whether or not the Services are considered works made for hire or an employment to invent, all Work Product shall be the sole property of SSVEC.

11.2. SSVEC acknowledges that, in the course of performing the Services, Supplier may use routines and related programming language, instructions, methods, and techniques that have been previously developed by Supplier (collectively, the "Pre-existing Materials") and that same shall remain the sole and exclusive property of Supplier.

11.3. The provisions of this Section shall survive the termination of this Agreement.

12. Surrender of Materials upon Termination. Upon termination of this Agreement, in whole or in part, Supplier shall immediately return to SSVEC all copies of properties received from SSVEC, created or received by Supplier on behalf of SSVEC, and which are related to the terminated portion of this Agreement.

13. Specifications in Government-Regulated Contracts. Supplier shall hereby acknowledge and follow all contractual obligations imposed upon SSVEC when providing Services related to contracts W9124A-04-C-0011 and W9124A-05-A-0001 on Fort Huachuca military base or any other future government contract. These specifications are identified as Fort Huachuca Contract Specifications (attached herein as Exhibit B).

14. Mutual Representations and Warranties. Each of SSVEC and Supplier represent and warrant the following and upon request will furnish evidence supporting each representation and warranty:

14.1. It is a business duly formed, validly existing, and in good standing under the laws of its state of domicile.

14.2. It has all requisite power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement.

14.3. This Agreement, when executed and delivered, shall be a valid and binding obligation of it enforceable in accordance with its terms.

14.4. It is duly licensed, authorized, or qualified to do business and is in good standing in every jurisdiction in which a license, authorization, or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it, except where the failure to be so licensed, authorized, or qualified would not have a material adverse effect on its ability to fulfill its obligations under this Agreement.

14.5. The execution, delivery, and performance of this Agreement has been duly authorized by it and this Agreement constitutes the legal, valid, and binding agreement of it and is

enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganizations, or moratoriums

14.6. It shall comply with all applicable federal, state, local, international, or other laws and regulations applicable to the performance by it of its obligations under this Agreement and shall obtain all applicable permits and licenses required of it in connection with its obligations under this Agreement.

14.7. There is no outstanding litigation, arbitrated matter or other dispute to which it is a party which, if decided unfavorably to it, would reasonably be expected to have a potential or actual material adverse effect on its ability to fulfill its obligations under this Agreement.

15. Representations and Warranties by Supplier. Supplier represents and warrants the following and upon request will furnish evidence supporting each representation and warranty:

15.1. Supplier is possessed of superior knowledge with respect to the Services and is aware that SSVEC is relying on Supplier's skill and judgment in providing the Services to SSVEC.

15.2. Supplier knows the particular purpose for which the Services are required.

15.3. Supplier's staff assigned to perform the Services have the experience and are qualified to perform the tasks involved with providing the Services in an efficient and timely manner. The Services shall be performed in a competent and professional workmanlike manner and in accordance with professional standards. Supplier acknowledges that SSVEC is relying on Supplier's representation of its experience and expertise, as well as that of its staff, and that any substantial misrepresentation may result in damage to SSVEC and its customers.

15.4. The Services and any other work performed by Supplier hereunder shall not infringe upon any United States or foreign copyright, patent, trade secret, or other proprietary right, or misappropriate any trade secret, of any third party, and Supplier further represents and warrants that it has neither assigned nor otherwise entered into an agreement by which it purports to assign or transfer any right, title, or interest to any technology or intellectual property right that would conflict with its obligations under this Agreement.

15.5. Supplier warrants to SSVEC that the Services and other work performed by Supplier will be free of defects in materials and workmanship for a period of two (2) years from the date of completion, unless a longer period is stated in the applicable Scope of Work.

15.6. Supplier warrants that the Supplier will comply with OSHA rules and regulations in addition to all of the Contractor's Safety Manual guidelines and Owner's safety requirements as applicable. Supplier shall be responsible for any fines assessed by OSHA due to Supplier being cited by OSHA as well as any fines specific to Supplier work that may be passed on to SSVEC.

15.7. In compliance with Executive Order 12989 which requires companies that contract with the federal government to electronically verify the employment eligibility of their workers, Supplier agrees to use an electronic employment eligibility verification system designated by the Secretary of Homeland Security to verify the employment eligibility Supplier's employees.

16. General Indemnity.

16.1. Supplier agrees, to the fullest extent permitted by law, to indemnify and hold harmless SSVEC, its officers, directors and employees (collectively the "Indemnitees") against any and all liabilities, damages, losses, expenses, claims, demands, suits, fines, or judgments (collectively "Claims"), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from any SSVEC Indemnatee, by reason of any Claim arising out of or relating to any act of error or omission, or misconduct of Supplier, its officers, directors, agents, employees, and subcontractors, during the performance of this Agreement

16.2. SSVEC agrees, to the fullest extent permitted by law, to indemnify and hold harmless Supplier, its officers, directors and employees (collectively the "Indemnitees") against any

and all liabilities, damages, losses, expenses, claims, demands, suits, fines, or judgments (collectively "Claims"), including reasonable attorneys' fees, costs, and expenses incidental thereto, which may be suffered by, accrued against, charged to, or recoverable from any Supplier Indemnitee, by reason of any Claim arising out of or relating to any act of error or omission, or misconduct of SSVEC, its officers, directors, agents, employees, and subcontractors, during the performance of this Agreement.

17. Limitation of Liability. NOTWITHSTANDING ANY OTHER PROVISION SET FORTH HEREIN, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, SPECIAL, AND/OR CONSEQUENTIAL DAMAGES, EXCEPT FOR SUCH LIQUIDATED DAMAGES SET FORTH IN THE SCOPE OF WORK, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT; PROVIDED, HOWEVER, THAT THE FOREGOING EXCULPATION OF LIABILITY SHALL NOT APPLY WITH RESPECT TO DAMAGES INCURRED AS A RESULT OF THE GROSS NEGLIGENCE OR WILFULL MISCONDUCT OF A PARTY. A PARTY SHALL BE LIABLE TO THE OTHER FOR ANY DIRECT DAMAGES ARISING OUT OF OR RELATING TO ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT.

18. Insurance.

- 18.1. Supplier shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts stated herein, with responsible insurance carriers duly qualified in those states (locations) where the Services are to be performed, covering the operations of Supplier, pursuant to this Agreement.

TYPES OF INSURANCE	LIMITS OF LIABILITY (Minimum Amounts)
Comprehensive or Commercial General Liability and Third Party Property Damage	\$1,000,000 per occurrence, \$2,000,000 aggregate
Excess Liability Insurance *	\$2,000,000 per occurrence, \$2,000,000 aggregate
Comprehensive or Business Automobile Liability; Personal Injury (including bodily injury) and Third Party Property Damage	\$1,000,000 per occurrence
Workers' Compensation	Statutory limits
Employer's Liability	\$500,000 per accident
Professional Errors and Omissions Insurance †	\$1,000,000 per occurrence, \$1,000,000 aggregate

* Excess Liability Insurance may not be required. Initial here if waived _____.

† Professional Errors and Omissions Insurance is waived for construction contractors.

- 18.2. SSVEC shall be named as an additional insured in such policies which shall contain standard cross liability clauses. Supplier shall cause the liability it assumed under this Agreement to be specifically insured under the contractual liability section of the liability insurance policies. The liability policy shall be primary without right of contribution from any insurance by SSVEC. Such policies shall require that SSVEC be given not less than thirty (30) days prior written notice of any cancellation thereof or material change therein. SSVEC shall have the right to request an adjustment of Limits of Liability for General Liability and Errors and Omissions Insurance as Supplier's exposure to SSVEC increases (i.e. if Supplier's annual payment is expected to be \$2,000,000 then \$1,000,000 limits are no longer adequate).
- 18.3. Upon SSVEC's request, Supplier shall provide SSVEC with certificates of insurance evidencing all of the above coverage, including all special requirements specifically noted above, and shall provide SSVEC with certificates of insurance evidencing renewal or substitution of such insurance thirty (30) days prior to the effective date of such renewal or substitution.

19. General.

- 19.1. Relationship between SSVEC and Supplier. Supplier represents and warrants that it is an independent contractor with no authority to contract for SSVEC or in any way to bind or to commit SSVEC to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of SSVEC. Under no circumstances shall Supplier, or any of its staff, if any, hold itself out as or be considered an agent employee, joint venture, or partner of SSVEC. In recognition of Supplier's status as independent contractor, SSVEC shall carry no Workers' Compensation insurance or any health or accident insurance to cover Supplier or Supplier's agents or staff, if any. SSVEC shall not pay any contributions to Social Security, unemployment insurance, federal or state withholding taxes, any other applicable taxes whether federal, state, or local, nor provide any other contributions or benefits which might be expected in an employer-employee relationship. Neither Supplier nor its staff, if any, shall be eligible for, participate in, or accrue any direct or indirect benefit under any other compensation, benefit, or pension plan of SSVEC.
- 19.2. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona and the federal laws of the United States of America. Supplier hereby consents and submits to the jurisdiction and forum of the state and federal courts in the State of Arizona in all questions and controversies arising out of this Agreement.
- 19.3. Compliance With Laws; SSVEC Policies and Procedures. Both parties agree to comply with all applicable federal, state, and local laws, executive orders and regulations issued, where applicable. Supplier shall be responsible for ascertaining all governmental laws and regulations pertaining to the performance of the Services. Supplier shall give all notices required and otherwise comply with all laws, ordinances, rules, regulations, and orders of any authority bearing upon performance of the Services. Supplier shall secure and pay for permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Services. Supplier shall comply with SSVEC policies and procedures where the same are posted, conveyed, or otherwise made available to Supplier. Without limiting Supplier's other obligations of indemnification herein, Supplier shall defend, indemnify, and hold SSVEC Indemnitees harmless from and against any and all Claims, including reasonable expenses suffered by, accrued against, or charged to or recoverable from any SSVEC Indemnitee, on account of the failure of Supplier to perform its obligations imposed herein.
- 19.4. Force Majeure. Neither party shall be liable for delays or any failure to perform under this Agreement due to causes beyond its reasonable control. Such delays include, but are not limited to, fire, explosion, flood or other natural catastrophe, governmental legislation, acts, orders, or regulation, strikes or labor difficulties, to the extent not occasioned by the fault or negligence of the delayed party. Any such excuse for delay shall last only as long as the event remains beyond the reasonable control of the delayed party. However, the delayed party shall use its best efforts to minimize the delays caused by any such event beyond its reasonable control. The delayed party must notify the other party promptly upon the occurrence of any such event, or performance by the delayed party will not be considered excused pursuant to this Section, and inform the other party of its plans to resume performance.
- 19.5. Advertising and Publicity. Supplier shall not refer to SSVEC directly or indirectly in any advertisement, news release, or publication without prior written approval from SSVEC.
- 19.6. No Waiver. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect that party's right to enforce such provisions, nor shall the waiver by either party of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision.
- 19.7. Notices. Any notice given pursuant to this Agreement shall be in writing and shall be given by personal service, facsimile or electronic mail with delivery acknowledgment, or by United States certified mail, return receipt requested, postage prepaid to the addresses appearing at the end of this Agreement, or as changed through written notice to the other party. Notice

given by personal service shall be deemed effective on the date it is delivered to the addressee, and notice mailed shall be deemed effective on the third day following its placement in the mail addressed to the addressee.

- 19.8. Assignment of Agreement. This Agreement and the obligations of Supplier hereunder are personal to Supplier and its staff. Neither Supplier nor any successor, receiver, or assignee of Supplier shall directly or indirectly assign this Agreement or the rights or duties created by this Agreement, whether such assignment is effected in connection with a sale of Supplier's assets or stock or through merger, an insolvency proceeding or otherwise, without the prior written consent of SSVEC.
- 19.9. Entire Agreement. This Agreement and its attached exhibits constitute the entire agreement between the parties and supersede any and all previous representations, understandings, or agreements between SSVEC and Supplier as to the subject matter hereof. This Agreement may only be amended by an instrument in writing signed by the parties.
- 19.10. Cumulative Remedies. All rights and remedies of SSVEC herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance against Supplier for the enforcement of this Agreement, and temporary and permanent injunctive relief.

20. Acceptance.

Executed on the dates set forth below by the undersigned authorized representative of SSVEC and Supplier to be effective as of the Effective Date.

**SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC. (SSVEC)**

(SUPPLIER)

Signature: _____

Signature: _____

Name: Creden Huber
Title: Chief Executive Officer
Date:

Name:
Title:
Date:

Address for Notice:

Address for Notice:

SSVEC
350 North Haskell, Willcox, AZ 85643
Telephone: (520) 384-2221
Fax: (520) 384-5523
Email: chuber@ssvec.com

Telephone:
Fax:
Email: